

1 NICOLA T. HANNA
United States Attorney
2 BENJAMIN R. BARRON
Assistant United States Attorney
3 Chief, Santa Ana Branch Office
CHARLES E. PELL (Cal. Bar No. 210309)
4 Assistant United States Attorney
Santa Ana Branch Office
5 Ronald Reagan Federal Bldg. & U.S. Courthouse
411 West 4th Street, Suite 8000
6 Santa Ana, California 92701
Telephone: (714) 338-3542
7 Facsimile: (714) 338-3561
E-mail: Charles.E.Pell2@usdoj.gov

8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MARGARET QUICK,

16 Defendant.

No. 8:18-cr-00243-PSG

STIPULATION REGARDING REQUEST FOR
(1) CONTINUANCE OF TRIAL DATE AND
(2) FINDINGS OF EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY TRIAL
ACT

CURRENT TRIAL DATE: 01/26/2021
PROPOSED TRIAL DATE: 03/23/2021

18 Plaintiff United States of America, by and through its counsel
19 of record, the United States Attorney for the Central District of
20 California and Assistant United States Attorney Charles E. Pell, and
21 defendant MARGARET QUICK ("defendant"), both individually and by and
22 through her counsel of record, Steven R. Toscher, Esquire, and Evan
23 J. Davis, Esquire, hereby stipulate as follows:

24 1. The Indictment in this case was filed on November 28, 2018.
25 Defendant first appeared before a judicial officer of the court in
26 which the charges in this case were pending on March 25, 2019. The
27 Speedy Trial Act, 18 U.S.C. § 3161, originally required that the
28 trial commence on or before June 3, 2019.

1 2. On December 3, 2018, the case was transferred from the
2 Honorable James v. Selna to the Honorable Andrew J. Guilford.

3 3. On February 5, 2020, the case was reassigned from the
4 Honorable Andrew J. Guilford to the Honorable Philip S. Gutierrez.

5 4. On October 13, 2020, pursuant to the most recent
6 stipulation of the parties and good cause, the Court continued the
7 trial date to January 26, 2021.

8 5. Defendant is released on bond pending trial. The parties
9 estimate that the trial in this matter will last approximately five
10 days.

11 6. By this stipulation, defendant moves to continue the trial
12 date to March 23, 2021, and the status conference date to March 8,
13 2021. This is the sixth request for a continuance.

14 7. Defendant requests the continuance based upon the following
15 facts, which the parties believe demonstrate good cause to support
16 the appropriate findings under the Speedy Trial Act:

17 a. Defendant is charged with violating 26 U.S.C.
18 § 7212(a): attempt to interfere with administration of the Internal
19 Revenue laws (counts 1-2), and 18 U.S.C. § 1001(a)(2): false
20 statement (count 3).

21 b. The government has produced a very large amount of
22 discovery to the defense, which includes documents with bates
23 numbering exceeding 8,000,000, such as written reports, email
24 messages, tax records, and more than 500 pages of grand jury
25 transcripts.

26 c. Defendant experienced a medical condition that
27 required another surgery that occurred on January 28, 2020. In
28 addition to some serious post surgery complications for defendant,

1 there have been continuing medical issues, so counsel has had limited
2 ability to meet with defendant.

3 d. Due to the nature of the prosecution and the existence
4 of novel questions of fact or law, including the charges in the
5 indictment and the voluminous discovery being produced to defendant,
6 this case is so unusual and so complex that it is unreasonable to
7 expect adequate preparation for pretrial proceedings or for the trial
8 itself within the Speedy Trial Act time limits. This case will also
9 involve issues involving the attorney-client privilege.

10 e. In light of the foregoing, counsel for defendant also
11 represents that additional time is necessary to confer with
12 defendant, conduct and complete an independent investigation of the
13 case, conduct and complete additional legal research including for
14 potential pre-trial motions, review the discovery and potential
15 evidence in the case, and prepare for trial in the event that a
16 pretrial resolution does not occur. Defense counsel represents that
17 failure to grant the continuance would deny him reasonable time
18 necessary for effective preparation, taking into account the exercise
19 of due diligence.

20 f. Defendant believes that failure to grant the
21 continuance will deny her continuity of counsel and adequate
22 representation.

23 g. The government joins in the request for, and does not
24 object to, the continuance.

25 h. The requested continuance is not based on congestion
26 of the Court's calendar, lack of diligent preparation on the part of
27 the attorney for the government or the defense, or failure on the
28 part of the attorney for the Government to obtain available

1 witnesses.

2 8. The parties also agree that the trial should be continued
3 under the ends-of-justice provision of the Speedy Trial Act also
4 based upon the COVID pandemic:

5 a. On March 13, 2020, following the President's
6 declaration of a national emergency in response to COVID-19, the
7 Court entered a General Order suspending jury selection and jury
8 trials scheduled to begin before April 13, 2020. C.D. Cal. General
9 Order No. 20-02, In Re: Coronavirus Public Emergency, Order
10 Concerning Jury Trials and Other Proceedings (Mar. 13, 2020). The
11 Court most recently renewed that suspension, until a "date to be
12 determined," on August 6, 2020. C.D. Cal. General Order No. 20-09,
13 In Re: Coronavirus Public Emergency, Further Order Concerning Jury
14 Trials and Other Proceedings (Aug. 6, 2020).

15 b. Also on March 13, 2020, the Court imposed health- and
16 travel-related limitations on access to Court facilities. C.D. Cal.
17 General Order No. 20-03, In Re: Coronavirus Public Emergency, Order
18 Concerning Access to Court Facilities (Mar. 13, 2020). On March 19,
19 2020, by Order of the Chief Judge, the Court instituted its
20 Continuity of Operations Plan ("COOP"), closing all Central District
21 of California courthouses to the public (except for hearings on
22 criminal duty matters) and taking other emergency actions. C.D. Cal.
23 Order of the Chief Judge No. 20-042 (Mar. 19, 2020). On March 29 and
24 31, recognizing COVID-19's continued spread in the community, the
25 Court took further action: implementing video-teleconference and
26 telephonic hearings and suspending all grand-jury proceedings. C.D.
27 Cal. Orders of the Chief Judge Nos. 20-043 (Mar. 29, 2020) and 20-044
28 (Mar. 31, 2020). The Court's most recent General Orders maintain

1 court facilities' general closure to the public but allow in-person
2 criminal hearings for defendants who do not consent to remote
3 appearance and allow up to 10 members of the public to attend.
4 General Order No. 20-12, at 2 (Sept. 14, 2020); General Order No. 20-
5 09, at 2-3 (Aug. 6, 2020).

6 c. These orders were imposed based on (1) the California
7 Governor's declaration of a public-health emergency in response to
8 the spread of COVID-19, as well as (2) the Centers for Disease
9 Control's advice regarding reducing the possibility of exposure to
10 the virus and slowing the spread of the disease. See, e.g., General
11 Order 20-02, at 1. The Chief Judge has recognized that, during the
12 COVID-19 crisis, all gatherings should be limited to no more than 10
13 people and elderly and other vulnerable people should avoid person-
14 to-person contact altogether. See Order of the Chief Judge No. 20-
15 042, at 1-2. The Court has more broadly recognized CDC guidance
16 advising "precautions to reduce the possibility of exposure to the
17 virus and slow the spread of the disease[.]" General Order 20-09, at
18 1.

19 d. Local and state governments have adopted similar
20 policies. On March 19, 2020, both Los Angeles Mayor Eric Garcetti
21 and California Governor Gavin Newsom issued emergency orders
22 requiring residents to "stay home," subject to limited exceptions.
23 California Executive Order N-33-20 (March 19, 2020); accord Safer at
24 Home, Public Order Under City of Los Angeles Emergency Authority ¶ 1
25 (March 19, 2020). Subject to similarly limited exceptions, all
26 travel was prohibited. Safer At Home ¶ 4. Non-essential businesses
27 requiring in-person attendance by workers were ordered to cease
28 operations. Id. ¶ 2. All schools in the Los Angeles Unified School

1 District remain closed to in-person classes.

2 e. As these orders reflect, the coronavirus pandemic is a
3 global emergency that is unprecedented in modern history. As data
4 from both the Centers for Disease Control and the California
5 Department of Public Health reflect, the virus has spread through the
6 United States community at an alarming rate. See Coronavirus Disease
7 2019 (COVID-19) in the U.S., Centers for Disease Control and
8 Prevention (updated daily), available at
9 [https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-](https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html)
10 [us.html](https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html); Coronavirus Disease 2019 (COVID-19), California Department
11 of Public Health (updated daily), available at
12 [https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx)
13 [Immunization/ncov2019.aspx](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx). The death toll, across the world, is
14 staggering.

15 f. The Court's August 6, 2020 General Order concluded,
16 based on these facts, that "in order to protect public health, and in
17 order to reduce the size of public gatherings and reduce unnecessary
18 travel," it was necessary to suspend criminal jury trials until
19 further notice. General Order 20-09, at 1 (Aug. 6, 2020). The Court
20 concluded that, given the increased rates of COVID-19-related
21 hospitalization and death over the preceding 30 days, "holding jury
22 trials substantially increases the chances of transmitting the
23 Coronavirus," and it would thus "place prospective jurors, defendant,
24 attorneys, and court personnel at unnecessary risk." Id. at 3. The
25 Court concluded that suspending jury trials thus served the ends of
26 justice and outweighed the interests of the public and defendants in
27 a speedy trial. Id.

28 g. Moreover, California State has recently instituted new

1 more restrictive orders related to COVID-19. Specifically, on
2 December 3, 2020, California announced a Regional Stay Home Order,
3 that went into effect Saturday, December 5, 2020, and remains in
4 effect for at least 3 weeks, in certain regions if intensive care
5 unit (ICU) capacity drops below 15% in a region. The Central
6 District of California falls within the "Southern California" region
7 of that Order, which includes all seven of the counties in the
8 Central District - Los Angeles, Orange, Riverside, San Bernardino,
9 San Luis Obispo, Santa Barbara, and Ventura Counties - as well as
10 Imperial, Inyo, Mono, and San Diego Counties. Among other things,
11 that order instructs Californians in certain high transmission
12 areas/regions to stay at home as much as possible and closes many
13 establishments and limits others. On December 5, 2020, Los Angeles
14 County announced that the county health officer order would be
15 modified because the Southern California Region fell below the 15%
16 capacity threshold mandated in the California State Regional Stay
17 Home Order. Specifically, the new release provided: "The State
18 announced a Regional Stay Home Order will go into effect and would
19 remain in effect for at least three weeks in California regions where
20 ICU capacity falls below 15%. According to the State, as of December
21 5, the Southern California Region has 12.5% staffed adult ICU
22 capacity remaining. The State advises the Order goes into effect
23 Sunday, December 6 at 11:59 p.m. and remains in effect for at least 3
24 weeks. ... The Order prohibits private gatherings of any size, closes
25 sector operations, and requires 100% masking and physical distancing.
26 The State Regional Stay at Home Order is similar to the existing
27 County Safer at Home Health Offer with additional sector closings."
28 As of present, the order is still in effect.

1 h. The Central District of California has not adopted any
2 protocols for safely conducting jury trials. See General Order 20-
3 09.

4 i. By Notice dated December 7, 2020, the United States
5 District Court for the Central District of California has activated
6 its Continuity of Operations ("COOP") Plan, effective December 9,
7 2020 at 5:00 p.m. through and including January 8, 2021. According
8 to the Court's Notice: "The activation of the COOP Plan is necessary
9 to ensure the continuous performance of essential functions and
10 operations of the Court in light of the Coronavirus Disease 2019
11 ("COVID-19") pandemic and the recent unprecedented surge of COVID-19
12 cases, hospitalizations, and test positivity rates in the Central
13 District." Under that Notice, all Courthouses in the Central
14 District of California will be closed to the public except for
15 hearings on criminal duty matters, and all jury trials remain
16 suspended, as well as all regularly scheduled grand jury proceedings
17 are suspended.

18 j. As the above facts reflect, the ends of justice
19 justify excludable time here. Pandemic, like natural disaster or
20 other emergency, grants this Court the discretion to order an ends-
21 of-justice continuance. "Although the drafters of the Speedy Trial
22 Act did not provide a particular exclusion of time for such public
23 emergencies (no doubt failing to contemplate, in the more innocent
24 days of 1974, that emergencies such as this would ever occur), the
25 discretionary interests-of-justice exclusion" certainly covers this
26 situation. United States v. Correa, 182 F. Supp. 2d 326, 329
27 (S.D.N.Y. 2001) (addressing September 11 attacks); see Furlow v.
28 United States, 644 F.2d 764, 767-69 (9th Cir. 1981) (affirming Speedy

1 Trial exclusion after eruption of Mount St. Helens); accord United
2 States v. Stallings, 701 F. App'x 164, 170-71 (3d Cir. 2017) (same,
3 after prosecutor had "family emergency"); United States v. Hale, 685
4 F.3d 522, 533-36 (5th Cir. 2012) (same, where case agent had
5 "catastrophic family medical emergency"); United States v. Scott, 245
6 Fed. Appx. 391, 394 (5th Cir. 2007) (same, after Hurricane Katrina);
7 United States v. Richman, 600 F.2d 286, 292, 293-94 (1st Cir. 1979)
8 (same, after a "paralyzing blizzard" and the informant was
9 hospitalized).

10 k. Here, the public health risks outlined above--and the
11 findings articulated in General Orders 20-02 and 20-09--justify a
12 continuance. As the President, the California governor, the Los
13 Angeles mayor, and this Court's own General Orders have recognized,
14 we are in the midst of a grave public-health emergency requiring
15 people to take extreme measures to limit contact with one another.
16 The Central District of California has no established jury-trial
17 protocol at present; instead, the Court has concluded that jury
18 trials would "place prospective jurors, defendant, attorneys, and
19 court personnel at unnecessary risk." General Order 20-09 at 3
20 ¶ 6(a). In the absence of such a district-wide protocol, proceeding
21 with a jury trial is unsafe.

22 l. In addition, due to the restrictions imposed by
23 current public-health concerns, it is also unreasonable to expect
24 adequate preparation for pretrial proceedings or for the trial itself
25 within Speedy Trial Act time limits.

26 m. Under these unusual and emergent circumstances, denial
27 of a continuance is likely to deny all counsel reasonable time
28

1 necessary for effective preparation, taking into account the exercise
2 of due diligence.

3 9. For purposes of computing the date under the Speedy Trial
4 Act by which defendant's trial must commence, the parties agree that
5 the time period of January 26, 2021, to March 23, 2021, inclusive,
6 should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A),
7 (h)(7)(B)(i), (h)(7)(B)(ii), and (h)(7)(B)(iv) because the delay
8 results from a continuance granted by the Court at defendant's
9 request, without government objection, on the basis of the Court's
10 finding that: (i) the ends of justice served by the continuance
11 outweigh the best interest of the public and defendant in a speedy
12 trial; (ii) failure to grant the continuance would be likely to make
13 a continuation of the proceeding impossible, or result in a
14 miscarriage of justice; (iii) the case is so unusual and so complex,
15 due to the nature of the prosecution and the existence of novel
16 questions of fact or law, that it is unreasonable to expect
17 preparation for pre-trial proceedings or for the trial itself within
18 the time limits established by the Speedy Trial Act; and (iv) failure
19 to grant the continuance would unreasonably deny defendant continuity
20 of counsel and would deny defense counsel the reasonable time
21 necessary for effective preparation, taking into account the exercise
22 of due diligence.

23 ///

24 ///

25 ///

1 10. Nothing in this stipulation shall preclude a finding that
2 other provisions of the Speedy Trial Act dictate that additional time
3 periods be excluded from the period within which trial must commence.
4 Moreover, the same provisions and/or other provisions of the Speedy
5 Trial Act may in the future authorize the exclusion of additional
6 time periods from the period within which trial must commence.

7 IT IS SO STIPULATED.

8 Dated: January 6, 2021

Respectfully submitted,

9 NICOLA T. HANNA
10 United States Attorney

11 BENJAMIN R. BARRON
12 Assistant United States Attorney
13 Chief, Santa Ana Branch Office

14 _____
15 /s/
16 CHARLES E. PELL
17 Assistant United States Attorney
18 Santa Ana Branch Office

19 Attorneys for Plaintiff
20 UNITED STATES OF AMERICA

21 I am MARGARET QUICK's attorney. I have carefully discussed
22 every part of this stipulation and the continuance of the trial date
23 with my client. I have fully informed my client of her Speedy Trial
24 rights. To my knowledge, my client understands those rights and
25 agrees to waive them. I believe that my client's decision to give up
26 the right to be brought to trial earlier than March 23, 2021, is an
27 informed and voluntary one.

28 /s/ *per email authorization dated 01/06/2021*

29 _____
30 STEVEN R. TOSCHER/EVAN J. DAVIS
31 Attorneys for Defendant
32 MARGARET QUICK

Date